IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1406 OF 2003

Amol Ramchandra Pawar
aged about 22 years, residing at
Ambilsa Nagar, V.D.Gunjal Chawl,
J.H.Road, Mulund (West),
Mumbai-400 080. .. **Appellant (Orig. Accused)**

Versus

The State of Maharashtra
Through the Public Prosecutor
High Court, Bombay. .. **Respondent**

Mr.P.M. Pradhan for the Appellant-accused
Mr.P.S. Hingorani APP for the Respondent-State

CORAM : R.M.S.KHANDEPARKAR AND S.R. SATHE,JJ.
DATED : 21/11/2007

ORAL JUDGEMENT (PER SATHE,J.) :-

1. The Appellant-original accused in Sessions Case No.720 of 2001 has preferred this appeal against the judgement and order passed by the Additional Sessions Judge, Greater Mumbai whereby the accused was convicted for the offence punishable under section 302 of IPC and sentenced to suffer imprisonment for life and to pay fine of Rs.3,000/- in default to suffer Rigorous Imprisonment for one year.

2. The brief facts giving rise to this appeal are as under :-

Complainant Kaitpillai Anthony Raj was residing

at RPF Quarters, Building No.34, Block No.21, Station Road, Mulund alongwith his first wife Mrs. Gress. His second wife Stenla was residing at Rajvilla Goshala Road, Mulund, Mumbai. He has two children from his second wife. At times, he used to stay with Mrs.Gress and some times with his second wife.

Previously, the complainant was serving in RPF as Sub-Inspector, but, he was removed from the service. He challenged the order of removal by filing suit. In the mean time, the complainant passed LLB examination and started practicing as a lawyer.

3. Complainant's first wife Mrs.Gress was serving as Head Mistress in Samsung English High School, Mulund (West). As she had no issue, in the year 1998 she had brought daughter of her brother Enjaline to stay with her. The complainant and Mrs.Gress decided to adopt Enjaline. Initially, Enjaline was studying in Samsung English High School and thereafter, she was admitted to Wani English High School.

4. Mrs. Gress as well as some other teachers in Samsung English High School used to conduct private tuitions in the premises of the complainant where Mrs.Gress was residing. Usually, such tuitions used to

be conducted between 12.00 noon to 4.00 pm or so. On 11/04/2001, Ms. Milred Dontus (PW-2) went to the house of Mrs.Gress for conducting tuitions. When she reached the house, she pressed the door bell of the house, however, as the door was not opened, Ms. Milred Dontus opened the latch of the door with the keys which she was having with her. As other teachers also used to conduct tuitions, duplicate keys were provided to them. Alongwith Ms. Milred Dontus, other students also entered the said house. After few minutes when Ms.Milred Dontus went to the kitchen, she found Enjaline lying there. When Ms. Milred Dontus tried to find out as to what happened to her, she noticed that Enjaline had sustained bleeding injuries near her neck and shoulder. She, therefore, immediately sent some students to Mrs.Gress to call her. Accordingly, students called Mrs.Gress. On her arrival, Mrs.Gress asked Ms. Milred Dontus to go to Mulund Court and call her husband i.e. complainant. Accordingly, Ms. Milred Dontus went and informed the complainant about the incident. Naturally, he immediately rushed to the place of incident. After having noticed that Enjaline had sustained bleeding injuries and lying in a pool of blood and dead, he immediately called police.

5. PSI Shinde who was on duty at Navghar Police Station immediately rushed to the place of incident. After noticing the situation at the said place, he recorded complaint of the complainant Kaitpillai Anthony Raj and the same was registered as C.R. No.9 of 2001 for the offence punishable under section 302 of IPC. He then drew inquest panchanama and the panchanama of place of offence. He also sent the dead body for postmortem.

6. After registration of the offence police started necessary investigation. On 12/04/2001, the complainant went to the Police Station and informed that one sickle which was in their house was missing from their house. So, Police recorded supplementary statement of the complainant. Police then recorded statement of various witnesses. They also tried to record statement of some of the students who used to attend tuitions at the complainant's house. When Police recorded statement of one Sureshkumar Nadar, it transpired that one Amol Ramchandra Pawar (present accused) also used to attend tuitions and at times, he had misbehaved with Enjaline. Some other incriminating information was also received. Hence, Police arrested the accused on 05/05/2001. When the accused was in the

police custody, he made a statement before Police that he would point out keys and the sickle connected with the offence and also showed willingness to produce his clothes. Police, therefore, called panchas and recorded statement of the accused and then accused led police and panchas to his house and from the loft he produced two keys which were kept in the box and one red T-shirt and blue colour jean pant kept in the cupboard. Police attached the same under the panchanama. Accused also made a statement that he would point out the place where sickle was concealed and accordingly, police recorded memorandum and then accused led police and panchas towards Nala and there he produced one sickle which was concealed in the bushes. Police also attached the said sickle under the panchanama. Police then sent the attached property to C.A. for examination.

7. In the mean time, police had received postmortem report wherein Doctor had opined that the cause of death was suffocation due to smothering, compression of neck, multiple stab and incised wounds and multiple burn injuries. Police recorded statements of some other witness and after completion of the investigation submitted charge-sheet against the accused for the offences punishable under Sections 302, 397 and 201 of IPC.

8. Finding that the accused was charge-sheeted for the offence punishable under section 302 of IPC which was exclusively triable by the Court of Sessions, the learned Metropolitan Magistrate committed the case to the Sessions Court, Greater Mumbai.

9. The Additional Sessions Judge Greater Mumbai framed charge Exh-3 against the accused for the offences mentioned above. The charge was read over and explained to the accused. The accused pleaded not guilty to the said charge and claimed to be tried. His defence was of total denial.

10. In order to prove the charge levelled against the accused the Prosecution examined as many as 12

witnesses consisting of PW-1 complainant Kaitpillai Anthony Raj Exh-8, PW-2 Milred Dontus Exh-10, PW-3 Sureshkumar Nadar Exh-11, PW-4 Mahendra Pathak Exh-12, PW-5 Arvind Mulkala Exh-13, PW-6 Nazir Ahmed Tayaddin Halmi, the key maker Exh-14, PW-7 complainant's wife Gress Jebathai Raj Exh-15, PW-8 Dr.Vithal Vihurkar Exh-16 who did the postmortem, PW-9 Mr.Uday Kakkad Exh-19, PW-10 another pancha witness Anthony Glsco Exh-22, PW-11 pancha witness Sanjaykumar Nigam Exh-26 and PW-12 Investigating Officer PI Shivaji Shelar Exh-28. Prosecution also produced certain documents such as complaint Exh-9, panchanama of the place of offence Exh-10, P.M. Notes Exh-17, Memorandum panchanama, Seizure panchanama of clothes of accused Exh-20 and Exh-21, another memorandum panchanama and seizure panchanama regarding sickle Exh-23 and Exh-24, Spot panchanama Exh-27, panchanama regarding demonstration of applying key to the latch of the complainant's house Exh-33, C.A. Report Exh-34 and arrest panchanama Exh-35.

11. After considering the evidence adduced by the prosecution and hearing arguments of both the learned Advocates, the learned Trial Judge came to the conclusion that though the evidence with regard to

discovery was not satisfactory, other circumstantial evidence on record was certainly sufficient to prove the guilt of the accused, so far as offence punishable under section 302 of IPC was concerned. He, however, found that there was no evidence with regard to robbery. The learned Trial Judge, therefore, convicted the accused only for the offence punishable under section 302 of IPC and passed the above mentioned order of sentence.

12. Being aggrieved by the said order of conviction and sentence, the accused has filed the present appeal. In this appeal before us, Shri P.M. Pradhan, learned Advocate for the accused has urged only 3 points. Firstly, he submitted that there is absolutely no direct evidence against the accused to connect him with the alleged crime. Secondly, he canvassed before us that statements of the witnesses on which reliance has been placed by the Trial Court were recorded by the Investigating Officer after a period of about 25 days. So, the said fact was alone sufficient to discard the testimony of these witnesses. Besides this, according to him, the prosecution had not brought on record sufficient circumstantial evidence so as to point out beyond reasonable doubt that the accused has committed

the crime in question. Lastly, he submitted that once the learned Trial Judge had observed that there was no satisfactory evidence regarding discovery of the keys, clothes and weapon in question, it was not proper on the part of the learned Trial Judge to hold that there is sufficient circumstantial evidence to prove the offence of murder. He, therefore, submitted that appeal be allowed and the order of conviction and of sentence be set aside. As against this, Shri Hingorani, learned APP supported the judgement and order passed by the trial Judge.

13. It is not in dispute that complainant's wife Gress was residing at RPF quarter, Building No.34, Block No.21, Station Road, Mulund alongwith deceased Enjaline. It is also an admitted fact that at the time of incident, Enjaline was about 14 years of age and was studying in 9th standard. She died on 11/04/2001 is also not disputed. Admittedly, when PW-2 Ms. Milred Dontus opened the door of the complainant's house and entered the kitchen, it was noticed that Enjaline had sustained bleeding injuries. When PSI sent the dead body of Enjaline for postmortem, he noticed following external injuries on her person.

"Injury No.(1) stab wound on the right side of face 4 cm. away from right ear,

horizontal measuring 2 cm. X 1 cm. X bone deep.

(2) Incised wound on the posterolateral of the neck at scalp hair line, horizontal, measuring 4 cm. X 0.8 cm. X muscle deep.

(3) Incised wound on the right side of neck 6 cm. below right ear, horizontal, measuring 2.5 cm. x 0.9 cm. x muscle deep,

(4) Incised wound on the right side of the neck adjacent to injury No.3, horizontal, measuring 3 cm x 0.5 cm x muscle deep,

(5) stab wound on the right side of the neck, horizontal, below wound No.4, measuring 3.5 cm x 1 cm x 2.5 cm x (bone deep)

(6) stab wound on the right side of the neck below injury No.5, horizontal, measuring 2 cm x 0.9 cm x 2.5 cm x (bone deep)

(7) stab wound on the right side of neck below wound No.3, horizontal, measuring 4 cm x 1.5 cm x 2 cm.

(8) Incised wound on the right side of neck below wound No.6, horizontal, measuring 2 cm x 1 cm x muscle deep,

(9) Incised wound below injury No.7, horizontal, measuring 2 cm x 0.8 cm muscle deep

(10) Burn injury on the left side of face 10.5 cm vertical x 7 cm horizontal

(11) Abrasion on the nose on the left side near tip of the nose measuring 0.4 cm x 0.4 cm semi circular in shape (nail mark)

(12) Contusions under the both lips inner surface.

(13) Multiple abrasion on the neck over thyroid cartilage bilaterally.

(14) Burn injury on the lower part of neck and left side of chest measuring 10 cm vertical and 7 cm. horizontal

(15) Abrasion on the chest in front measuring 1 cm x 0.8 cm. They were two in number.

(16) Burn injury on the right arm and forearm medial aspect 14 cm x 4 cm x 2 cm in width.

(17) Burn injury on the left arm triangular in shape 8 cm x 4 cm, skin deep.

(18) Abrasion on the left arm elbow joint anterior 3 cm x 2 cm.

(19) burn injury on the left forearm 10 cm x 1 cm under deep x 5.5 cm in triangular in shape.

(20) Two burn marks over the left thigh lower 1/3 of the thigh over laping each other measuring 11 cm in length 1 cm at the tip and 6 cm in width. The other one measuring 8 cm in length. 1 cm on the tip and 6 cm in width. Both burn marks are triangular in shape.

(21) Contusion on the left hand, palm base

(22) Abrasions (bite marks) on the areolar (around the nipple) on both upper or lower side of right breast measuring 3.5 cm x 0.8 cm on lower side and 3 cm. x 0.8 cm. on upper side."

14. Doctor has opined the cause of death is due to suffocation due to smothering, compression of neck,

multiple stab and incised wound and multiple burn injuries. Thus, from the above evidence, it is very clear that death of Enjaline was homicidal. In fact, learned Advocate for the accused has also not argued before us that the death of Enjaline was not homicidal.

15. The main and the material question is whether the death of Enjaline was caused at the hands of the present accused. At the outset, it must be mentioned that there is no eye witness to the incident. Nobody has seen the accused assaulting Enjaline on that day. Nor there is any evidence regarding Enjaline and accused having seen together just prior to the incident. Thus, it is very clear that there is no direct evidence in the instant case and the case solely rests on the circumstantial evidence.

16. It is needless to say that circumstantial evidence can be the basis of conviction if it is of such a character that it is wholely inconsistent with innocence of the accused and is consistent with the guilt of the accused. It has been so held in **M.G. Agarwal V/s. State of Maharashtra AIR 1963 SUPREME COURT 200**. However, it is also well settled that before a person could be found guilty on the basis of

circumstantial evidence, each of the circumstance relied upon must be clearly established and proved circumstances taken together must be such as reasonably to exclude the probability of innocence. For this proposition, useful reference can be made to a case **Kedar Nath Bajoria V/s. State of West Bengal AIR 1954 S.C. 660**. In **Manmohan Singh V/s. State of Punjab AIR 1997 SUPREME COURT 1773** their Lordship have observed that in circumstantial evidence each circumstance to be weighed against accused must be clearly established and also such circumstances established beyond any doubt must form a complete chain which will unmistakably point out the guilt of the accused and excepting guilt of the accused, no other conclusion can be reasonably drawn. So, bearing in mind the above principles regarding appreciation of the circumstantial evidence, let us scan the evidence on record and find out whether the circumstantial evidence in this case is sufficient to convict the accused.

17. Prosecution witness No.2 Milred Dontus Exh-10 has stated that previously the accused was studying in their school. Prosecution Witness No.3 Suresh Nadar Exh-11 has also stated that accused was studying in their school and he also used to attend the tuitions at

the house of Mrs.Gress. It is not disputed that this prosecution witness and the accused were known to each other or that both of them were attending tuitions. Witness Nadar has stated that the behaviour of the accused was not good. He was in habit of teasing girls and ladies. He had also love affair with one Nitya and during the absence of Mrs.Gress, the accused used to take Nitya to upstair. Not only that but this witness has even stated that in the absence of Ms.Gress when Enjaline used to take bath in a bathroom, accused used to peep through the door of bathroom. The accused used to misbehave with Enjaline and Enjaline had warned the accused that she would tell the said things to her mother i.e. Mrs.Gress. This witness has also stated that at times accused used to steal money from the purse of Gress. However, as accused had given them threats, the said witness and other never disclose these facts to Mrs.Gress. Evidence of this witness is also corroborated to some extent by the other student namely, PW-5 Arvind Mulkala. He has also stated that the accused used to steal money and then used to entertain the said witness and other friend. However, as accused was well built and was Karate player, the said witness and his friends were afraid of him and they never made a complaint against him. This witness

has also stated that accused used to tease deceased Enjaline and he used to call her “Phawadi” because her teeth were protruded. He has also stated that as the accused used to misbehave with Enjaline, she used to warn the accused. Thus, from the evidence of these two witnesses one thing is certain that relations between Enjaline and the accused were not cordial. She had some grievance against the accused and naturally, the accused was having grudge against her. Similarly, considering the facts and circumstances of the case, due weightage shall have to be given to the evidence which indicates that the accused was not a strait forward well behaved boy but on the contrary, he appears to be a vagabond. Thus, previous relations and conduct of the accused vis-a-vis deceased Enjaline has some importance and relevance while considering the other circumstantial evidence.

18. The Prosecution witness No.7 Mrs.Gress adoptive mother of deceased has stated that on 11/04/2001 i.e. on the day of incident at about 7.50 to 8.00 am, she left home for school and at that time, Enjaline was alone at home. It is pertinent to note from the evidence of PW-2 Milred Dontus that at about 12.00 noon when she entered the house of Mrs.Gress, Enjaline was

found dead. So, her death must have occurred sometimes between 7.50 am to 12.00 noon. Naturally, it is necessary to find out as to whether there is any evidence to show that at the relevant time, accused was present at the said place. While considering this aspect we find that PW-4 Mahendra Pathak who is in fact a friend of accused has stated that on 11/04/2001 i.e. on the day of incident at about 8.00 to 8.30 am when he was going to market, he saw the accused coming out of building No.34 i.e. building of the deceased. Though, this witness has been cross-examined at length nothing has been brought on record to show that this witness has any grudge or grievance against the present accused nor there is anything on record to show that there is any reason to doubt his statement that on 11/04/2001, he had seen accused coming out of the building of the deceased at about 8.00 to 8.30 am. Merely because statement of this witness was recorded after a period of about one month, we can not jump to the conclusion that he is not a trustful witness. On the contrary, it has come on record that soon after the incident this witness had gone to his native place i.e. at Agra and he returned to Bombay on 15/05/2001 and immediately, thereafter, his statement has been recorded. There are various authoritative pronouncements in which the Apex

Court has observed that merely because there is delay in recording the statement of witnesses by the Investigating Officers, his evidence in the Court can not be disbelieved or discarded when otherwise the same appears to be truthful and there is nothing on record to show that he is a got up witness. It has been so held in **Ranbir and others V/s. State of Punjab 1973 Criminal Law Journal 1120**. Similar view is also expressed in a case **Ganeshlal V/s. State of Maharashtra 1992 Criminal Law Journal 1545**. So, when we find that the evidence of witness PW-4 Mahendra Pathak is not at all shaken or shattered in the cross-examination it has to be held that prosecution has proved beyond reasonable doubt that accused came out of the building, where deceased was residing at about 8.00 to 8.30 am. Incidentally, it must be noted that the accused is not at all given any explanation as to why the witness PW-4 Mahendra Pathak is deposing against him. Nor anything has been brought on record to show that the accused had any other reason for going to the said building at the relevant time. So, we do find that the accused was seen near the place of offence at the relevant time.

19. Prosecution witness No.3 Suresh Nadar Exh-11 who was admittedly known to the accused has stated that

on 11/04/2001 at about 7.15 to 7.30 am, he had seen the accused on platform No.4 of Mulund Railway Station which is admittedly adjacent to the building of the deceased. The said witness has also stated that at the relevant time, the accused was in red and white half T-shirt and blue jean. It must be noted that evidence of this witness is also not shaken or shattered in the cross-examination. Nothing has been brought on record to indicate that this witness is having grudge against the accused or that he was under the influence of complainant or police. Even the accused has also not stated in his statement under Section 313 of Cr.P.C. that this witness is having any reason to depose against him. When such is the position, we have to accept the evidence of this witness which also corroborates the evidence of other witness namely Mahendra Pathak.

20. PW-9 Uday Kakkad Exh-19 has stated that on 5th Police had called him to act as a pancha and at that time, accused was present in the Police Station and he voluntarily made a statement that he would hand over the clothes and keys from the place where he has kept the same and accordingly, accused took police and panchas to his house and there he produced one pant and

T-shirt and clothes before the Court are the same which are attached under the panchanama Exh-20. It is pertinent to note that though this witness has substantially supported the prosecution by saying that in his presence the accused made a statement that he would produce clothes and keys and accordingly, the accused took Police and panchas to the house and there he produced clothes and panchanama was drawn, he has not stated anything about drawing memorandum or recording the statement of accused in the Police Station when he showed willingness to produce clothes and keys. So, technically the essential ingredients of Section-27 of the Evidence Act are not fulfilled so far as this witness is concerned. However, it must be noted that Investigating Officer Shivaji Shelar has stated on oath that in his presence and panchas, the accused had made such statement for pointing out clothes and keys and accordingly, memorandum was drawn and then accused had led them to his house and produced clothes. So, merely because the pancha witness had acted as pancha in several other cases or one technical aspect of discovery panchanama has not been deposed to by pancha. We are not inclined to hold that in the instant case, the Prosecution has not proved that there was no proper discovery of the clothes. The evidence of Investigating

Officer under the circumstances of the case can safely be accepted and it is sufficient to prove the discovery. So, from this evidence we find that clothes which were produced by the accused were red colour T-shirt and blue colour jean pant. It must be noted that witness Suresh Nadar Exh-11 has also stated that on that day at the relevant time the accused was seen at the platform in red T-shirt and blue jean pant. So, from these circumstances, one can safely accept the Prosecution evidence that at the relevant time, the accused was seen near the place of offence. It has also come on record that the said clothes were sent to C.A. and the C.A. has reported vide Exh-34 that some blood stains were noticed on the said clothes. It is true that C.A. was unable to give opinion about the blood group but the fact remains that some blood stains were found on the clothes. So, this is also a clinching circumstance which shows involvement of the accused in the alleged crime.

21. There is another important piece of evidence which connects the accused with the alleged crime. It is the Prosecution case that when the accused was in the Police custody, he made a statement before Police that he would point out the sickle and accordingly,

statement of accused was recorded in the presence of panchas and then accused led police and panchas towards Lokmanya Tilak Extension Road and there from the side of one gutter/nala he produced one sickle concealed in the bushes and police attached the same under the panchanama Exh-24. In order to prove this case, prosecution has examined pancha witness Anthony Glsco Exh-22. The said witness has corroborated the prosecution version and identified sickle in question. It is true that it has come on record that this pancha witness was previously involved in two criminal cases and was also detained under section 151 of Cr.P.C. However, that by itself is not sufficient to discard his testimony particularly when it is not shown that what he has stated now in the instant case is not true or correct. It must be noted that immediately on the next day of incident, complainant had reported to Police that sickle is missing from their house. The said sickle, after it was produced by the accused was shown to Mrs.Gress and she also identified the same. It is true that normally, there was no reason for the accused to carry the sickle after the commission of offence but we do find that many a times in particular state of mind the accused carries the weapon with him. Merely because it was not his weapon we can not jump to

the conclusion that the evidence adduced by the prosecution in this behalf is unreliable. Even PI Shelar has also stated on oath that the accused made a statement to point out the sickle and accordingly, memorandum and panchanama were drawn and accused produced such sickle and then it was identified by Mrs.Gress. In fact, Mrs. Gress has also identified the said sickle while in the witness box. It must be noted that when the said sickle was sent to C.A., C.A. also noticed blood stains on the same but the result was inconclusive so far as blood group is concerned. So, if we take into consideration the nature of injuries that were found on the person of the deceased and the sickle in question the discovery of sickle at the instance of accused lends support to the prosecution version.

22. There is yet another circumstance showing involvement of accused with the alleged crime. It has come on record through the evidence of PW-2 Milred Dontus that when she had gone to the house of Mrs.Gress on the day of incident at about 12.00 noon, house was latched and though she pressed the door bell there was no response and then she opened the said door with the help of key which was with her. It has come in the evidence of witness Suresh Nadar Exh-11 that once

accused had in fact taken away the original keys of the said flat and then he got prepared duplicate keys from the key maker. The said witness has also stated that at that time he had accompanied the accused. It must be noted that this witness is a friend of accused. There is no reason for him to depose falsely against him. A feeble attempt has been made to show that the said witness was also interrogated by Police and they threatened him that if he would not depose as stated by them they will involve him in the offence and so the witness deposed against the accused. However, it must be noted that even the accused has not stated accordingly in his statement under Section-313 of Cr.P.C., he has vaguely stated that witnesses have deposed at the instance of Police. It was also tried to be shown that these witnesses were in fact beaten by police and at that time, the accused was also beaten. But accused told police that he would inform their superior about the beating and hence, Police involved the accused falsely. It is very difficult to swallow submission in this behalf. Firstly, it must be noted that if really it had happened accordingly then certainly accused would have made a complaint about the same when he was produced before the Magistrate. But there is nothing on record to show that he had made

such complaint. Besides this, even in his statement under section 313 of Cr.P.C., the accused has nowhere stated that he was beaten by police and when he made a grievance about the same, police roped him in this case falsely. So, mere some suggestions to the prosecution witnesses in this behalf are not at all sufficient even to show that there is any substance in the defence taken by the accused. So, from the evidence of witness Nadar it is very clear that the accused had ill motive in obtaining duplicate keys of the latch of the house of Mrs.Gress and deceased.

23. The Prosecution has also examined witness PW-6 Nazir Ahmed Tayaddin Halmi Exh-14, he has stated that he is doing business as key maker. He has further stated that accused had come to him and got prepared two keys. Not only that but when two keys were shown to him in the Court he identified the said two keys and stated that same were prepared by him. He has identified it on the basis of the word embossed on the said keys. His evidence is not at all shaken or shattered in the cross-examination. A vague suggestion is put to him that as he is not having necessary license to carry on business he is deposing at the instance of police. However, mere vague suggestion is

of no use. There is no reason why a totally independent witness, should come forward to depose against the accused and that too in such a serious offence. The learned Trial Judge had an opportunity to see and mark the demeanor of the said witness and he has also accepted the evidence of this witness. So, from the evidence of witness Nadar and witness PW-6 Nazir Halmi, it is very clear that the accused got prepared two keys of the latch a lock of the house of the complainant and deceased with criminal intent. It must also be noted that it is clear from the evidence of witness Uday Kakkad and PI Shelar that the said two keys were produced by the accused from his house. From panchanama Exh-33 and deposition of Investigating Officer it is also clear that with the said keys the latch and lock of the house of the deceased were opened. So, the said keys matched to the latch and lock of the house of the deceased.

24. Thus, if we take into consideration the above mentioned circumstances together, then only irresistible conclusion that can be drawn is that the accused had a grievance against the Enjaline and he committed the offence in question. The learned Trial Judge has properly appreciated the evidence of material

witnesses and has also rightly held that the accused is guilty of offence punishable under Section 302 of IPC. Hence, there is no necessity to interfere with the said finding.

25. In this view of the matter, there is no substance in the appeal.

Appeal is dismissed.

(S.R.SATHE,J.) **(R.M.S.KHANDEPARKAR,J.)**